

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UFCW LOCAL 174 PENSION FUND and ITS
TRUSTEE,

Plaintiffs,

-against-

5600 MARKET CORP. and JOHN DOE
COMPANY,

Defendants.

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AMON, United States District Judge:

Plaintiffs UFCW Local 174 Pension Fund (“Pension Fund”) and its sole Trustee, Larry Magarik, bring this action against Defendants 5600 Market Corp. and John Doe Company (a fictitious entity) seeking to collect damages and fees arising out of a “mass withdrawal” from the Pension Fund in violation of §§ 502, 515, and 4301 of the Employee Retirement Income Security Act, 29 U.S.C. §§ 1132, 1145, and 1451. Defendant 5600 Market Corp. never entered an appearance in this case and the Clerk of Court entered an Entry of Default on November 6, 2017. Plaintiffs filed a motion for default judgment against 5600 Market Corp. on December 7, 2017. (D.E. # 10.) The Court referred the motion to the Honorable Cheryl L. Pollak, United States Magistrate Judge, who thereafter submitted a Report and Recommendation (“R&R”) recommending that the Court grant Plaintiffs’ motion for default judgment against 5600 Market Corp. and dismiss Plaintiffs’ claims against John Doe Company without prejudice. Objections to the R&R were due by August 30, 2018.

No party has objected to the R&R, and the time for doing so has passed. When deciding whether to adopt a report and recommendation, a district court “may accept, reject, or modify, in

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ORDER
17-CV-5789 (CBA) (CLP)

whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). To accept those portions of the R&R to which no timely objection has been made, “a district court need only satisfy itself that there is no clear error on the face of the record.” Jarvis v. N. Am. Globex Fund, L.P., 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (internal quotation marks and citation omitted).

The Court has reviewed the record and, finding no clear error, adopts the well-reasoned R&R as the opinion of the Court with one small modification. On August 16, 2018, the date of Magistrate Judge Pollak’s R&R, \$8,081.19 in interest had accrued on Plaintiffs’ withdrawal liability award. As of September 13, 2018—the date of this order—the accrued interest totals \$8,545.74. The Court therefore grants default judgment in favor of Plaintiffs in the total amount of \$8,574.74 and an additional \$18.01 per day until judgment is entered. The Court also directs the Clerk of Court to close this case.

SO ORDERED.

Dated: September 13, 2018
Brooklyn, New York

s/Carol Bagley Amon

Carol Bagley Amon /
United States District Judge